HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 3388 of 2001 (SS)

1. Diwan Singh Mehta s/o Sri Dungar Singh Mehta
2. Nandan Singh Mehta s/o Sri Dungar Singh Mehta
3. Chandan Lal Tamta s/o Harish Lal Tamta
4. Alok Kumar Tamta s/o Jagdish Prasad Tamta
5. Shekhar Chand Pant s/o Sri Ramesh Chand Pant
6. Ishwari Dutt Khulbe s/o Sri Damoder Prasad Khulbe
   All residents of District Institute of Education & Training , Almora. ..... Petitioners

Versus

1. State of Uttaranchal
2. Director of Education Uttaranchal, Dehradun
3. Joint Director of Education, Nainital.. Respondents

Sri S.K. Posti, Advocate for the petitioners
Standing Counsel for the respondents.

Dated: 20.3.2006

Hon'ble Rajesh Tandon, J.

Heard Sri S.K. Posti counsel for the petitioners and standing Counsel for the respondents.

By the present writ petition, the petitioners have prayed for a writ of mandamus directing the respondents to take into consideration the previous service of the petitioners and to give the seniority to the petitioners from the date of their initial appointment in the previous department.

Briefly stated the petitioners were appointed as Lower Division Clerk in the Adult Education Department but after completion of project, their services were terminated. Again

they were given job and were appointed as Lower Division Clerk in the District Institute of Education and Training, Almora. The Government on 23.9.1998 has merged the department in the Education Cadre and prepared a joint seniority list. According to the petitioners they submitted representation to the authorities concerned for the benefits of previous service but till today no decision has been taken by the respondents and the petitioners are working in the lower grade. Hence, the present writ petition has been filed.

Sri S.K. Posti, counsel for the petitioners has submitted that the present writ petition is squarely covered by the judgment of Allahabad High Court in writ petition No. 12879 of 2001 Uma Shankar Singh vs. State of U.P. and others. By a common order dated 5.4.2002, a Division Bench of Allahabad High Court has decided 32 similar writ petitions.

The Division Bench of the Allahabad High Court held as under:

"Since the Government have not addressed itself to factors relevant to the question as to protection of pay and status, we are of the view tat the matter should be remitted toa the State Government for reconsideration."

In view of above, the matter is remitted to the State Government to reconsider the feasibility of protection of pay and status of the petitioners after taking into consideration all the relevant factors and pass suitable order in this regard within three months after the receipt of the certified copy of this order.

Accordingly, writ petition is allowed in part.

No order as to costs.

Dated: 20.3.2006 **Rajesh Tandon, J.**

*Dhyani